

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

CORNELIUS CAMPBELL BURGESS,

Plaintiff,

v.

**FEDERAL DEPOSIT INSURANCE
CORPORATION; MARTIN J.**

GRUENBERG, in his official capacity as
Acting Chairman of the FDIC; **MICHAEL J.**
HSU, in his official capacity as a Director
of the FDIC; **ROHIT CHOPRA**, in his
official capacity as a Director of the FDIC;
and **JENNIFER WHANG**, in her official
capacity as an Administrative Law Judge,

Defendants.

Civil Action No. 7:22-cv-00100-O

The Honorable Reed O'Connor,
United States District Judge, Presiding

**NOTICE OF REQUEST FOR HEARING ON PLAINTIFF CORNELIUS
CAMPBELL BURGESS'S MOTION FOR RECONSIDERATION**

On December 2, 2022, Plaintiff Cornelius Campbell Burgess filed his Motion for Reconsideration (ECF No. 53) and Memorandum in Support (ECF No. 54) asking this Court to reconsider its Order granting in part and denying in part his Motion for Preliminary Injunction (ECF No. 31). In his Reconsideration Motion, Mr. Burgess respectfully requests that the Court alter or amend that Order so as to find that he is entitled to a preliminary injunction with respect to Counts 1 and 2 of his Complaint (ECF No. 1), in addition to Count 3. Defendants filed an Opposition to the Reconsideration Motion on January 13, 2023 (ECF No. 66), and Mr. Burgess filed his Reply on January 27, 2023 (ECF No. 68). The Motion is now fully briefed.

Mr. Burgess respectfully requests that this Court set Plaintiff's Reconsideration Motion for hearing and oral argument. Counsel for Mr. Burgess is available to appear in person for a hearing any time between February 7 and February 10, or at a sooner time if provided with sufficient advance notice.

On January 27, 2023, counsel for Mr. Burgess contacted counsel for Defendants to ascertain their position on a potential oral hearing. On January 30, 2023, counsel for Defendants provided the following statement for inclusion in the Certificate of Conference:

Briefing on the FDIC's motion to dismiss concludes February 17, 2023. DE 58. If this court determines oral argument is warranted on the motion for reconsideration, the FDIC submits the Court should hold oral argument on the FDIC's motion to dismiss at the same time as argument on the motion for reconsideration at a date after February 17, 2023. The motion to dismiss briefing covers the same arguments in the motion for reconsideration and includes other dispositive arguments. If this Court decides to hold argument on the motion for reconsideration prior to the conclusion of briefing on the motion to dismiss, the FDIC respectfully requests argument be scheduled for the week of February 13. If the Court prefers to hear oral argument during the week of February 6, the FDIC requests that the hearing take place on February 10.

Mr. Burgess's position is that it would not be appropriate to consolidate the oral hearings on his Reconsideration Motion and Defendants' motion to dismiss, because the latter motion will not become fully briefed until February 17, 2023. As Mr. Burgess recently explained in his reply in support of his Reconsideration Motion, this Court retains the option to issue an "indicative ruling" on the Reconsideration Motion pursuant to Federal Rule of Civil Procedure 62.1. ECF No. 68 at 2-4. If such a ruling is issued, it could potentially result in suspension of the pending Fifth Circuit proceedings. The interests of judicial economy therefore favor a procedure that allows this Court to resolve the pending Reconsideration Motion as soon as possible. For that reason, Mr. Burgess respectfully submits that an oral hearing on his Reconsideration Motion should not be delayed while the Court waits for the Defendants' motion to dismiss to become fully briefed.

Dated: January 30, 2023

Respectfully submitted,

/s/ Manuel G. Berrelez

Michael A. Heidler (TX Bar No. 24059921)
Email: mheidler@velaw.com
VINSON & ELKINS LLP
200 West 6th Street, Suite 2500
Austin, Texas 78701
Telephone: (512) 542-8579

James T. Dawson (TX Bar No. 24094618)
Pro Hac Vice (DC Bar No. 1602502)
Email: jamesdawson@velaw.com
VINSON & ELKINS LLP
2200 Pennsylvania Avenue, NW
Suite 500 West
Washington, DC 20037
Telephone: (202) 639-6588

Manuel G. Berrelez (TX Bar No. 24057760)
Email: mberrelez@velaw.com
Thomas P. Mitsch (TX Bar No. No. 24102218)
Email: tmitsch@velaw.com
James F. Hopper (TX Bar No. 24116535)
Email: jhopper@velaw.com
Madelyn C. Stanley (TX Bar No. 24121529)
Email: mstanley@velaw.com
VINSON & ELKINS LLP
Trammell Crow Center
2001 Ross Avenue, Suite 3900
Dallas, Texas 75201
Telephone: (214) 220-7700
Facsimile: (214) 220-7716

Counsel for Plaintiff Cornelius Campbell Burgess

CERTIFICATE OF CONFERENCE

Pursuant to Local Civil Rule 7.1(b), I hereby certify that I contacted Mr. Andrew Dober, counsel for all Defendants, to ascertain Defendants' position on a potential oral hearing concerning Mr. Burgess's Reconsideration Motion. On January 30, 2023, Mr. Dober relayed the following paragraph concerning his clients' position:

Briefing on the FDIC's motion to dismiss concludes February 17, 2023. DE 58. If this court determines oral argument is warranted on the motion for reconsideration, the FDIC submits the Court should hold oral argument on the FDIC's motion to dismiss at the same time as argument on the motion for reconsideration at a date after February 17, 2023. The motion to dismiss briefing covers the same arguments in the motion for reconsideration and includes other dispositive arguments. If this Court decides to hold argument on the motion for reconsideration prior to the conclusion of briefing on the motion to dismiss, the FDIC respectfully requests argument be scheduled for the week of February 13. If the Court prefers to hear oral argument during the week of February 6, the FDIC requests that the hearing take place on February 10.

Respectfully submitted,

/s/ Manuel G. Berrelez

Manuel G. Berrelez (Texas Bar No. 24057760)

Email: mberrelez@velaw.com

Counsel of Record

VINSON & ELKINS LLP

Trammell Crow Center

2001 Ross Avenue, Suite 3900

Dallas, Texas 75201

Telephone: (214) 220-7700

Facsimile: (214) 220-7716

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of January, 2023, I caused the foregoing document to be filed with the Clerk of the U.S. District Court for the Northern District of Texas via the Court's CM/ECF system, which will notification of such filing to be send to all counsel and parties of record registered to receive such notices.

Dated: January 30, 2023

Respectfully submitted,

/s/ Manuel G. Berrelez

Manuel G. Berrelez (Texas Bar No. 24057760)

mberrelez@velaw.com

VINSON & ELKINS LLP

Trammell Crow Center

2001 Ross Avenue, Suite 3900

Dallas, Texas 75201

Telephone: (214) 220-7700

Facsimile: (214) 220-7716

Counsel for Plaintiff Cornelius Campbell Burgess